

# EXHIBIT 10



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184036 7590 12/02/2021 Williams Simons & Landis PLLC/ GTP The Littlefield Building 601 Congress Ave., Suite 600 Austin, TX 78701			EXAMINER RALIS, STEPHEN J	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Order Granting Request For Ex Parte Reexamination</b>	<b>Control No.</b> 90/014,902	<b>Patent Under Reexamination</b> 8194924	
	<b>Examiner</b> STEPHEN J RALIS	<b>Art Unit</b> 3992	<b>AIA (FITF) Status</b> No

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The request for *ex parte* reexamination filed 11/11/2021 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a) ☐ PTO-892, b) ☒ PTO/SB/08, c) ☐ Other: \_\_\_\_\_

1. ☒ The request for *ex parte* reexamination is GRANTED.

**RESPONSE TIMES ARE SET AS FOLLOWS:**

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

cc:Requester ( if third party requester )

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## **ORDER GRANTING REEXAMINATION OF U.S. PATENT 8,194,924**

### ***I. Notice of Pre-AIA or AIA Status***

The present reexamination is being conducted under the pre-AIA first to invent provisions.

### ***II. Decision on Request for Ex Parte Reexamination***

In the instant request for reexamination filed 11 November 2021 (“EP Request”), reexamination of U.S. Patent No. 8,194,924 (“’924 Patent”) with respect to claims 1-14 was requested by a Third Party Requester *i.e.*, **Samsung Electronics Co., Ltd.**, (“EP Requester”) under 35 U.S.C. §§ 302-307 and C.F.R. § 1.510. A substantial new question of patentability (“SNQ”) is raised by the EP Request for reexamination and prior art cited therein for the reasons set forth below. Accordingly, the EP Request for reexamination is **GRANTED**.

### ***III. Priority***

The ’924 Patent issued on 05 June 2012, from U.S. Application No. 13/051,698 (“’698 Application”) filed on 18 March 2011, which is a continuation of U.S. Application No. 12/834,281 (“’281 Application”) filed on 12 June 2010, now U.S. Patent No. 7,933,431 (“’431 Patent”), which is a continuation of U.S. Application No. 12/834,281 (“’281 Application”) filed on 12 June 2010, now U.S. Patent No. 7,933,431 (“’431 Patent”), which is a continuation of U.S. Application No. 11/980,710 (“’710 Application”) filed on 31 October 2007, now U.S. Patent No. 7,756,297 (“’297 Patent”), which is a continuation of U.S. Application No. 10/893,534 (“’534

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Application”) filed on 19 July 2004, now U.S. Patent No. 7,401,783 (“783 Patent”), which is a continuation of U.S. Application No. 09/612,225 (“225 Application”) filed on 07 July 2000, now U.S. Patent No. 6,766,036 (“036 Patent”), which claims benefit of U.S. Provisional Application No. 60/142,777 (“777 Prov Application”) filed on 08 July 1999.

The Examiner finds that in the original prosecution of the ‘698 Application, Owner provided the Dec 2011 Owner Response that included both the Dec 2011 Drawings Amendment and Dec 2011 Specification Amendment subject matter to overcome the 35 U.S.C. 112, first paragraph, rejection. (See § IV *infra*). The Dec 2011 Owner Response asserted that the subject matter of U.S. Application No. 09/433,297 (“297 Application”) filed on 03 November 1999, now U.S. Patent No. 6,750,848 (“848 Patent”) was “previously incorporated by reference,” and thus, “no new matter has been added.” (Dec 2011 Owner Response at 7). However, in examination of the continuity of the ‘698 Application, the Examiner finds that the “incorporated by reference” statement of the ‘297 Application was provided first in the ‘225 Application and not in the ‘777 Prov Application. From this perspective, the Examiner finds that sufficient support for the claimed subject matter of the ‘698 Application, and the instant reexamination proceeding, was first provided to the Office in the ‘225 Application.

Thus, the Examiner concludes that for reexamination purposes the instant ‘924 Patent qualifies for an effective filing date of 07 July 2000, and not 08 July 1999.

#### ***IV. Original Prosecution History***

Owner filed the ‘698 Application with claims 1-30.

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On 14 October 2011, the original examiner issued a non-Final Office action (“Oct 2011 Non Final Office Action”) rejecting claims 1-30 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. (Oct 2011 Non Final Office Action at 2).

On 14 December 2011, Owner filed a “Response” to the Oct 2011 Non Final Office Action (“Dec 2011 Owner Response”) including Remarks, a Drawings Amendment (“Dec 2011 Drawings Amendment”), and a Specification Amendment (“Dec 2011 Specification Amendment”) to overcome the 35 U.S.C. 112, first paragraph, rejection. The “Dec 2011 Drawings Amendment and Dec 2011 Specification Amendment specifically included information incorporated by reference from U.S. Application No. 09/433,297 (“297 Application”) filed on 03 November 1999, now U.S. Patent No. 6,750,848 (“848 Patent”) in the ‘698 Application. (See ‘924 Patent at c.1, ll.46-48, 57-59).

On 18 January 2012, the original examiner issued a non-Final Office action (“Jan 2012 Non Final Office Action”) rejecting claims 1-4 and 9 under 35 U.S.C. 103(a) as being unpatentable over *Silverbrook* (U.S. Patent No. 6,788,336) in view of *Sumi et al.* (U.S. Patent No. 5,845,006)(“*Sumi*”); claims 5, 7, 8, 10-14 and 16-22 under 35 U.S.C. 103(a) as being unpatentable over *Silverbrook*, *Sumi* and *Kumar et al.* (U.S. Patent No. 6,204,852)(“*Kumar*”); claim 6 under 35 U.S.C. 103(a) as being unpatentable over *Silverbrook*, *Sumi* and *Umezawa et al.* (U.S. Patent No. 5,491,507)(“*Umezawa*”); claims 15 and 23 under 35 U.S.C. 103(a) as being unpatentable over *Silverbrook*, *Sumi*, *Kumar* and *Umezawa*; claims 24 and 26-28 under 35 U.S.C. 103(a) as being unpatentable over *Silverbrook* and *Kimura* (U.S. Patent No. 5,940,126); claim 25 under 35 U.S.C. 103(a) as being unpatentable over *Silverbrook*, *Kimura* and *Umezawa*; and claims 29-30 under 35 U.S.C. 103(a) as being unpatentable over *Silverbrook*, *Kimura* and *Kumar*.

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On 18 April 2012, Owner filed a "Response" to the Jan 2012 Non Final Office Action ("April 2012 Owner Response") including Remarks, and a Claim Amendment ("April 2012 Claim Amendment"). The April 2012 Claim Amendment canceled claims 1-23; amended claims 24, 26, 29 and 30; and provided new claims 31-37. Specifically, the April 2012 Claim Amendment amended independent claim 24<sup>1</sup> to now require: the first and second camera to have respective first and second outputs; the first and second camera including non-overlapping views, and the computer being adapted to perform control functions of the handheld device based on at least one of the first and second camera outputs (emphasis added). In addition, the April 2012 Owner Response asserted that *Silverbrook*, nor *Kimura*, disclose, teach or suggest a computer adapted to perform a control function based upon the output of first or second cameras having non-overlapping fields of view. (April 2012 Owner Response at 5-6).

The original examiner issued a Notice of Allowance ("April 2012 Notice of Allowance") on 27 April 2012 providing a "reasons for allowance" stating,

Independent claim 24 is allowed based upon convincing arguments presented in the remarks dated 4/18/2012.

(April 2012 Notice of Allowance at 2; emphasis added).

Thus, it appears from the record that the key features missing from the prior art at the time of allowance of independent claim 1 was the computer being adapted to perform a control function based upon the output of at least one of the first or second cameras, which have non-overlapping fields of view.

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<sup>1</sup> The Examiner finds that original claim 24 was renumbered to claim 1 in the April 2012 Notice of Allowance.

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***V. Other Proceedings***

***A. IPR2021-00923***

On 26 May 2021, a First Petitioner (*i.e.*, **Apple, Inc.**) filed a Petition for *Inter Partes* review of claims 1-14 of the '924 Patent, pursuant to 35 U.S.C. §§ 311-319 and 37 C.F.R. § 42.100 *et seq.* (See *Apple, Inc. vs Gesture Technology Partners LLC*. IPR2021-00923-1635 ("923 IPR Proceeding). A decision on whether to institute an *inter partes* review has not yet been determined. Thus, the 923 IPR Proceeding is not yet a "concluded examination(s) or review(s) of the patent." (See MPEP § 2242.II.A)

***B. IPR2022-00093***

On 10 September 2020, a Second Petitioner (*i.e.*, **LG Electronics, Inc.**) filed a Petition for *Inter Partes* review of claims 1-14 of the '924 Patent, pursuant to 35 U.S.C. §§ 311-319 and 37 C.F.R. § 42.100 *et seq.* (See *LG Electronics, Inc. et al. vs Gesture Technology Partners LLC*. IPR2021-00923-1635 ("93 IPR Proceeding). In addition, Second Petitioner filed a Motion for Joinder with the 923 IPR Proceeding. (93 IPR Proceedings, Motion for Joinder). A decision on whether to: institute an *inter partes* review; and/or grant the motion to join the 923 IPR Proceeding have not yet been determined. Thus, the 93 IPR Proceeding is not yet a "concluded examination(s) or review(s) of the patent." (See MPEP § 2242.II.A)

***VI. Information Disclosure Statement(s)***

EP Requester's Information Disclosure Statement, filed on 11 November 2021, ("Nov 2021 IDS) has been received and entered into the record.



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### ***VII. References Cited in EP Request***

A total of six references, in certain combinations, have been asserted in the EP Request as providing teachings relevant to the claims of the '924 Patent. The proposed references which make up the combinations are as follows:

- U.S. Patent No. 5,982,853 to *Liebermann* ("*Liebermann*") – NEW.<sup>2</sup>
- U.S. Patent No. 6,622,015 to *Himmel et al.* ("*Himmel*") – NEW.<sup>3</sup>
- U.S. Patent No. 6,115,482 to *Sears et al.* ("*Sears*") – NEW.<sup>4</sup>
- U.S. Patent No. 5,880,732 to *Tryding* ("*Tryding*") – NEW.<sup>5</sup>
- U.S. Patent No. 6,401,085 to *Gershman et al.* ("*Gershman*") – NEW.<sup>6</sup>
- U.S. Patent No. 5,953,322 to *Kimball* ("*Kimball*") – NEW.<sup>7</sup>

### ***VIII. Substantial New Questions (SNQ) of Patentability***

In view of the prosecution history asserted above, the April 2012 Owner Response and "reasons for allowance" from the '698 Application, as applied to the requested claims, will be utilized to determine whether the cited references raise an SNQ.

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<sup>2</sup> *Liebermann* has not been previously cited/considered in the original prosecution, nor the IPR proceedings above (*i.e.*, 923 and 093 IPR Proceedings). Thus, the prior art is considered new art and not "old art." (See MPEP § 2242).

<sup>3</sup> *Himmel* has not been previously cited/considered in the original prosecution, nor the IPR proceedings above (*i.e.*, 923 and 093 IPR Proceedings). Thus, the prior art is considered new art and not "old art." (See MPEP § 2242).

<sup>4</sup> *Sears* has not been previously cited/considered in the original prosecution, nor the IPR proceedings above (*i.e.*, 923 and 093 IPR Proceedings). Thus, the prior art is considered new art and not "old art." (See MPEP § 2242).

<sup>5</sup> *Tryding* has not been previously cited/considered in the original prosecution, nor the IPR proceedings above (*i.e.*, 923 and 093 IPR Proceedings). Thus, the prior art is considered new art and not "old art." (See MPEP § 2242).

<sup>6</sup> *Gershman* has not been previously cited/considered in the original prosecution, nor the IPR proceedings above (*i.e.*, 923 and 093 IPR Proceedings). Thus, the prior art is considered new art and not "old art." (See MPEP § 2242).

<sup>7</sup> *Kimball* has not been previously cited/considered in the original prosecution, nor the IPR proceedings above (*i.e.*, 923 and 093 IPR Proceedings). Thus, the prior art is considered new art and not "old art." (See MPEP § 2242).

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The italicized/underlined sections of claim 1 below is utilized by the Examiner to determine whether specific teachings of the cited references create a substantial new question of patentability in light of the prosecution history above.

Claim 1:

A handheld device comprising:

- (a) a housing;
- (b) a computer within the housing;
- (c) a first camera oriented to view a user of the handheld device and having a first camera output; and
- (d) a second camera oriented to view an object other than the user of the device and having a second camera output, wherein the first and second cameras include non-overlapping fields of view, and wherein the computer is adapted to perform a control function of the handheld device based on at least one of the first camera output and the second camera output.

The Examiner finds that prior art which teaches at least one of the italicized/underlined sections of the claim above which is **different** than that taught by the prior art cited in the '698 Application would provide a new, non-cumulative technological teaching raising a substantial new question of patentability.

***A. Liebermann; Liebermann and Tryding; Liebermann and Gershman; Liebermann and Himmel; Liebermann and Sears; and Liebermann and Kimball***  
**(SNQ for SNQ1 – SNQ3, SNQ10, SNQ13 and SNQ14 EP Requester designated – See EP Request at §§ V.A-C, J, M, N; VI.B.1-3, 10, 13, 14)**

In the present instance, there exists a SNQ based the publication of *Liebermann*. A discussion of the specifics now follows:

The Examiner finds that *Liebermann* was filed on 23 May 1996, which predates the filing of the '924 Patent. As such, *Liebermann* qualifies as prior art under 35 U.S.C. 102(e) and 102(a).

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<sup>8</sup> *Liebermann* was not of record in the original prosecution of the '924 Patent (*i.e.*, see § IV *supra*). Similarly, *Liebermann* is not present before the PTAB in the 923 IPR Proceeding, nor the 093 IPR Proceeding. (See § V.A-B *supra*).

The EP Request alleges to show that *Liebermann*, for claim 1, teaches [a] handheld device comprising: ... a computer within the housing; ... wherein the first and second cameras include non- overlapping fields of view; and wherein the computer is adapted to perform a control function of the handheld device based on at least one of the first camera output and the second camera output.

The EP Request specifically alleges to show that *Liebermann* teaches a handheld device that utilizes one or more cameras to sense facial motion and hand gestures from which processing hardware/software perform a control function based on at least one of the first and second camera outputs (EP Request at §§ V.A.1; 2.c, e). The Examiner finds that *Liebermann* teaches a handheld cellular telephone apparatus having image processing hardware/software within the handheld cellular telephone that processes facial, hand and finger image data into identifiers used to control the function of the handheld cellular telephone. (*Liebermann* at Abstract; c.4, l.60 – c.5, l.5; c.5, l.62 – c.6, l.10; c.6, ll.30-52; c.7, ll.18-21; c.13, ll.4-28; claims 1-3; see Figures 6, 8). The Examiner finds that *Liebermann* teaches the utilization of multiple cameras (*i.e.*, more than one) operating independently of the others with each camera covering a separate angle and having no angle overlap according to certain configurations. (*Id.* at c.13, ll.4-21).

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<sup>8</sup> The Examiner finds that *Liebermann* was filed 23 May 1996 as a Non-Provisional application and published as a U.S. Patent on 09 November 1999. As set forth above, the instant '924 Patent qualifies for an effective filing date of 07 July 2000, and not 08 July 1999. (See § III *supra*). Thus, the Examiner finds that *Liebermann* qualifies as prior art under both 35 U.S.C. 102(e) and 102(a), respectively.

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The EP Request appears to show that *Liebermann* presents a new, non-cumulative technological teaching that was not previously considered and discussed on the record during the prosecution of the application that resulted in the patent for which reexamination is requested.

The Examiner concludes that *Liebermann* sufficiently teaches the italicized/underlined sections of claim 1 above to support an SNQ. In light of the conclusion that *Liebermann* sufficiently teaches the italicized/underlined sections of claim 1, the Examiner concludes that an SNQ is additionally raised for claim 2-5, 9, 11, 13 and 14 for the same reasons as set forth above. Thus, it is **AGREED** that the consideration of *Liebermann* raises a substantial new question of patentability of at least claim 1 as pointed out above. There is a substantial likelihood that a reasonable examiner would consider these teachings important in deciding whether these claims are patentable.

***B. Liebermann and Himmel; Liebermann, Himmel and Tryding; Liebermann, Himmel and Gershman, and Liebermann, Himmel and Kimball or Liebermann and Sears; Liebermann, Sears and Tryding; Liebermann, Sears and Gershman, and Liebermann, Sears and Kimball***

**(SNQ for: SNQ4 – SNQ6, SNQ 11 and SNQ13 EP Requester designated – See EP Request at §§ V.D-F, K, M; VI.B.4-6, 11, 13; or SNQ7 – SNQ9, SNQ 12 and SNQ14 EP Requester designated – See EP Request at §§ V.G-I, L, N; VI.B.4-6, 12, 14)**

In the present instance, there exists a SNQ based the publication of *Liebermann* when taken with the publication of *Himmel* and/or *Sears*. A discussion of the specifics now follows:

As set forth above, the Examiner finds that *Liebermann* was filed on 23 May 1996, which predates the filing of the '924 Patent. As such, *Liebermann* qualifies as prior art under 35 U.S.C.

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102(e) and 102(a).<sup>9</sup> *Liebermann* was not of record in the original prosecution of the '924 Patent (*i.e.*, see § IV *supra*). Similarly, *Liebermann* is not present before the PTAB in the 923 IPR Proceeding, nor the 093 IPR Proceeding. (See § V.A-B *supra*).

The Examiner finds that *Himmel* was filed on 29 January 1999, which predates the filing of the '924 Patent. As such, *Himmel* qualifies as prior art under 35 U.S.C. 102(e).<sup>10</sup> *Himmel* was not of record in the original prosecution of the '924 Patent (*i.e.*, see § IV *supra*). Similarly, *Himmel* is not present before the PTAB in the 923 IPR Proceeding, nor the 093 IPR Proceeding. (See § V.A-B *supra*).

The Examiner finds that *Sears* was filed on 22 October 1998, which predates the filing of the '924 Patent. As such, *Himmel* qualifies as prior art under 35 U.S.C. 102(e).<sup>11</sup> *Sears* was not of record in the original prosecution of the '924 Patent (*i.e.*, see § IV *supra*). Similarly, *Sears* is not present before the PTAB in the 923 IPR Proceeding, nor the 093 IPR Proceeding. (See § V.A-B *supra*).

The EP Request alleges to show that *Liebermann* in view of *Himmel* and/or *Sears* for claim 1, teaches [a] handheld device comprising: ... a computer within the housing; ... wherein the first and second cameras include non- overlapping fields of view; and wherein the computer is adapted to perform a control function of the handheld device based on at least one of the first camera output and the second camera output.

<sup>9</sup> The Examiner finds that *Liebermann* was filed 23 May 1996 as a Non-Provisional application and published as a U.S. Patent on 09 November 1999. As set forth above, the instant '924 Patent qualifies for an effective filing date of 07 July 2000, and not 08 July 1999. (See § III *supra*). Thus, the Examiner finds that *Liebermann* qualifies as prior art under both 35 U.S.C. 102(e) and 102(a), respectively.

<sup>10</sup> The Examiner finds that *Himmel* was filed 29 January 1999 as a Non-Provisional application. As set forth above, the instant '924 Patent qualifies for an effective filing date of 07 July 2000, and not 08 July 1999. (See § III *supra*). Thus, the Examiner finds that *Himmel* qualifies as prior art under 35 U.S.C. 102(e), respectively.

<sup>11</sup> The Examiner finds that *Sears* was filed 22 October 1998 as a Non-Provisional application. As set forth above, the instant '924 Patent qualifies for an effective filing date of 07 July 2000, and not 08 July 1999. (See § III *supra*). Thus, the Examiner finds that *Sears* qualifies as prior art under 35 U.S.C. 102(e), respectively.

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The EP Request specifically alleges to show that *Liebermann* teaches a handheld device that utilizes one or more cameras to sense facial motion and hand gestures from which processing hardware/software perform a control function based on at least one of the first and second camera outputs (EP Request at §§ V.A.1; 2.c, e). The Examiner finds that *Liebermann* teaches a handheld cellular telephone apparatus having image processing hardware/software within the handheld cellular telephone that processes facial, hand and finger image data into identifiers used to control the function of the handheld cellular telephone. (*Liebermann* at Abstract; c.4, l.60 – c.5, l.5; c.5, l.62 – c.6, l.10; c.6, ll.30-52; c.7, ll.18-21; c.13, ll.4-28; claims 1-3; see Figures 6, 8). The Examiner finds that *Liebermann* teaches the utilization of multiple cameras (*i.e.*, more than one) operating independently of the others with each camera covering a separate angle and having no angle overlap according to certain configurations. (*Id.* at c.13, ll.4-21).

In addition, the EP Request specifically alleges to show that *Himmel* teaches wireless smartphones comprising computer units therein that handles a variety of sophisticated tasks. (EP Request at §§ V.D.1; 2.c, e). The Examiner finds that *Himmel* teaches a wireless cellular telephone apparatus having a computer platform therein, which includes the integration of personal computing technology into phones. (*Himmel* at c.1, ll.23-35). Specifically, *Himmel* teaches computer units within a wireless phone performing a variety of sophisticated tasks including standard voice and texting communications. (*Id.* at c.5, ll.18-29, 42-63).

Moreover, the EP Request specifically alleges to show that *Sears* teaches a system including multiple cameras that capture hand and finger gesturing motion and a computer device to process the captured images to perform certain controlling operations. (EP Request at §§ V.G.1; 2.c, e). The Examiner finds that *Sears* teaches a self-contained optical input reading

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device, which captures image gestures of finger and/or hands and, via an included computer, processes the captured images to interpret and provide command functionality therefrom. (*Sears* at Abstract; c.5, ll.2-21, 35-43, 51-61; c.7, ll.1-7; c. 10, ll.29-30; c.11, ll.7-14; c.17, ll.55-58; c.18, ll.9-18; c.20, ll.32-42; see Figures 1a, 1b, 2).

The EP Request appears to show that *Liebermann* in view of *Himmel* and/or *Sears* presents a new, non-cumulative technological teaching that was not previously considered and discussed on the record during the prosecution of the application that resulted in the patent for which reexamination is requested.

The Examiner concludes that *Liebermann* in view of *Himmel* and/or *Sears* sufficiently teaches the italicized/underlined sections of claim 1 above to support an SNQ. In light of the conclusion that *Liebermann* in view of *Himmel* and/or *Sears* sufficiently teaches the italicized/underlined sections of claim 1, the Examiner concludes that an SNQ is additionally raised for claim 2-14 for the same reasons as set forth above. Thus, it is **AGREED** that the consideration of *Liebermann* in view of *Himmel* and/or *Sears* raises a substantial new question of patentability of at least claim 1 as pointed out above. There is a substantial likelihood that a reasonable examiner would consider these teachings important in deciding whether these claims are patentable.

## ***IX. Related Prior Art***

### ***A. Tryding, Gershman, and Kimball***

The Examiner finds that *Tryding* is utilized by EP Requester for reading on non-SNQ claim requirements of claim 11. (See EP Request at §§ V.B, E, H). The non-SNQ claim

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requirements depend on the SNQ claim requirement of *Liebermann, Liebermann and Himmel*, and *Liebermann and Sears* which have raised SNQs as asserted above. (See §§ VIII.A-C *supra*).

The Examiner finds that *Gershman* is utilized by EP Requester for reading on non-SNQ claim requirements of claim 14. (See EP Request at §§ V.C, F, I). The non-SNQ claim requirements depend on the SNQ claim requirement of *Liebermann, Liebermann and Himmel*, and *Liebermann and Sears* which have raised SNQs as asserted above. (See §§ VIII.A-C *supra*).

The Examiner finds that *Kimball* is utilized by EP Requester for reading on non-SNQ claim requirements of claim 14. (See EP Request at §§ V.J-L). The non-SNQ claim requirements depend on the SNQ claim requirement of *Liebermann, Liebermann and Himmel*, and *Liebermann and Sears* which have raised SNQs as asserted above. (See §§ VIII.A-C *supra*).

The Examiner finds that *Tryding* was filed on 29 April 1997, which predates the filing of the '924 Patent. As such, *Tryding* qualifies as prior art under 35 U.S.C. 102(e) and 102(b).<sup>12</sup> *Tryding* was not of record in the original prosecution of the '924 Patent (*i.e.*, see § IV *supra*). Similarly, *Tryding* is not present before the PTAB in the 923 IPR Proceeding, nor the 093 IPR Proceeding. (See § V.A-B *supra*).

The Examiner finds that *Gershman* was filed on 05 March 1999, which predates the filing of the '924 Patent. As such, *Gershman* qualifies as prior art under 35 U.S.C. 102(e).<sup>13</sup> *Gershman* was not of record in the original prosecution of the '924 Patent (*i.e.*, see § IV *supra*). Similarly, *Gershman* is not present before the PTAB in the 923 IPR Proceeding, nor the 093 IPR Proceeding. (See § V.A-B *supra*).

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<sup>12</sup> The Examiner finds that *Tryding* was filed 29 April 1997 as a Non-Provisional application and published as a U.S. Patent on 09 Mar 1999. As set forth above, the instant '924 Patent qualifies for an effective filing date of 07 July 2000, and not 08 July 1999. (See § III *supra*). Thus, the Examiner finds that *Tryding* qualifies as prior art under both 35 U.S.C. 102(e) and 102(b), respectively.

<sup>13</sup> The Examiner finds that *Gershman* was filed 29 January 1999 as a Non-Provisional application. As set forth above, the instant '924 Patent qualifies for an effective filing date of 07 July 2000, and not 08 July 1999. (See § III *supra*). Thus, the Examiner finds that *Gershman* qualifies as prior art under 35 U.S.C. 102(e), respectively.



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The Examiner finds that *Kimball* was filed on 31 January 1999, which predates the filing of the '924 Patent. As such, *Kimball* qualifies as prior art under 35 U.S.C. 102(e) and 102(a).<sup>14</sup> *Kimball* was not of record in the original prosecution of the '924 Patent (*i.e.*, see § IV *supra*). Similarly, *Kimball* is not present before the PTAB in the 923 IPR Proceeding, nor the 093 IPR Proceeding. (See § V.A-B *supra*).

### **X. Summary**

Claims 1-14 of the '924 Patent will be reexamined as requested in the instant Order.

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<sup>14</sup> The Examiner finds that *Kimball* was filed 23 May 1996 as a Non-Provisional application and published as a U.S. Patent on 09 November 1999. As set forth above, the instant '924 Patent qualifies for an effective filing date of 07 July 2000, and not 08 July 1999. (See § III *supra*). Thus, the Examiner finds that *Kimball* qualifies as prior art under both 35 U.S.C. 102(e) and 102(a), respectively.

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## ***XI. Conclusion***

### **Extensions of Time**

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

### **Waiver of Right to File Patent Owner Statement**

In a reexamination proceeding, Patent Owner may waive the right under 37 C.F.R. 1.530 to file a Patent Owner Statement. The document needs to contain a statement that Patent Owner waives the right under 37 C.F.R. 1.530 to file a Patent Owner Statement and proof of service in the manner provided by 37 C.F.R. 1.248, if the request for reexamination was made by a third party requester, see 37 C.F.R. 1.550. The Patent Owner may consider using the following statement in a document waiving the right to file a Patent Owner Statement:

Patent Owner waives the right under 37 C.F.R. 1.530 to file a Patent Owner Statement.

### **Amendment in Reexamination Proceedings**

Patent owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j), must be formally presented pursuant to 37 CFR § 1.52(a) and (b), and must contain any fees required by 37 CFR § 1.20(c). See MPEP § 2250(IV) for examples to assist in the preparation of proper proposed amendments in reexamination proceedings.

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### **Service of Papers**

After the filing of a request for reexamination by a third party requester, any document filed by either the patent owner or the third party requester must be served on the other party (or parties where two or more third party requester proceedings are merged) in the reexamination proceeding in the manner provided in 37 CFR 1.248. See 37 CFR 1.550.

### **Notification of Concurrent Proceedings**

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 8,194,924 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

**All** correspondence relating to this ex parte reexamination proceeding should be directed:

By Mail to:        Mail Stop *Ex Parte* Reexam  
                      Central Reexamination Unit  
                      Commissioner for Patents  
                      United States Patent & Trademark Office  
                      P.O. Box 1450  
                      Alexandria, VA 22313-1450

By FAX to:        (571) 273-9900  
                      Central Reexamination Unit

By hand:           Customer Service Window  
                      Randolph Building  
                      401 Dulany Street  
                      Alexandria, VA 22314

By EFS-Web:

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Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at

<https://efs.uspto.gov/efile/myportal/efs-registered>

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

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Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

/Stephen J. Ralis/  
Primary Examiner, Art Unit 3992

Conferees:

/JAMES A MENEFEE/  
Reexamination Specialist, Art Unit 3992

/HETUL B PATEL/  
Supervisory Patent Examiner, Art Unit 3992

SJR  
29 November 2021

Doc code: IDS

Doc description: Information Disclosure Statement (IDS) Filed

PTO/SB/08a (01-10)

Approved for use through 07/31/2012. OMB 0651-0031

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<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> ( Not for submission under 37 CFR 1.99)	Application Number		13051698
	Filing Date		2011-03-18
	First Named Inventor	Timothy R. Pryor	
	Art Unit		
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	Attorney Docket Number		

U.S. PATENTS						Remove
Examiner Initial*	Cite No	Patent Number	Kind Code <sup>1</sup>	Issue Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
	1	5982853		1999-11-09	Liebermann	
	2	6115482		2000-09-05	Sears et al.	
	3	6622015		2003-09-16	Himmel et al.	
	4	6434403		2002-08-13	Ausems et al.	
	5	6401085		2002-06-04	Gershman et al.	
	6	5880732		1999-03-09	Tryding	
	7	5953322		1999-09-14	Kimball	
	8	5454043		1995-09-26	Freeman	

# **INFORMATION DISCLOSURE STATEMENT BY APPLICANT** ( Not for submission under 37 CFR 1.99)

Application Number	13051698
Filing Date	2011-03-18
First Named Inventor	Timothy R. Pryor
Art Unit	
Examiner Name	
Attorney Docket Number	

9	4988981	1991-01-29	Zimmerman et al.
10	6147678	2000-11-14	Kumar et al.
11	5594469	1997-01-14	Freeman et al.
12	6144366	2000-11-07	Numazaki et al.
13	6256033	2001-07-03	Nguyen

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	1	2175288	CA		1997-10-30	Bushnag		

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Art Unit	
Examiner Name	
Attorney Docket Number	

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	1	MICROSOFT, Microsoft Announces Release of Windows CE 2.0 - Stories, Sept. 29, 1997.	
	2	ADVANCED MICRO DEVICES, Logic Reference Guide, June 1993.	
	3	V. PAVLOVIC et al., Visual Interpretation of Hand Gestures for Human-Computer Interaction: A Review, 19 IEEE TRANSACTIONS ON PATTERN ANALYSIS AND MACHINE INTELLIGENCE 677 (1997).	
	4	Bushnag Bibliographic Summary, Canadian Patents Database, accessed August 2021.	

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**EXAMINER SIGNATURE**

Examiner Signature	/Stephen J. Ralis/	Date Considered	11/29/2021
--------------------	--------------------	-----------------	------------

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> See Kind Codes of USPTO Patent Documents at [www.USPTO.GOV](http://www.USPTO.GOV) or MPEP 901.04. <sup>2</sup> Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>3</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>4</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>5</sup> Applicant is to place a check mark here if English language translation is attached.



**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**  
( Not for submission under 37 CFR 1.99)

Application Number	13051698
Filing Date	2011-03-18
First Named Inventor	Timothy R. Pryor
Art Unit	
Examiner Name	
Attorney Docket Number	

**CERTIFICATION STATEMENT**

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

**OR**

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

See attached certification statement.

The fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☒ A certification statement is not submitted herewith.

**SIGNATURE**

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature	/Joseph E. Palys/	Date (YYYY-MM-DD)	2021-11-11
Name/Print	Joseph E. Palys	Registration Number	46508

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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